

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

VINCE ANTHONY ROLDAN,

Plaintiff and Respondent,

v.

PEGGIE LAUMBOY,

Defendant and Appellant.

B286155

(Los Angeles County  
Super. Ct. No. 17NWRO00717)

APPEAL from an order of the Superior Court for Los Angeles  
County, Clifford R. Anderson, Judge Pro Tem. Affirmed.

Peggie Leticia Laumboy, in pro. per., for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Peggie Laumboy appeals from a permanent restraining order entered against her, protecting respondent Vince Anthony Roldan. Laumboy, representing herself, contends that her right to due process was violated because (1) she was not given notice that the matter would be heard by a judge pro tem, and did not know or understand that the document she signed was a stipulation to have the matter heard by a judge pro tem; (2) the court did not give her an opportunity to present evidence to support her defense or to explain why she denied the allegations; (3) the court injured her dignity by suggesting she had psychological problems; and (4) the conduct at issue was insufficient to support a restraining order under Code of Civil Procedure section 527.6. We conclude the record does not support her contentions, and therefore we affirm the order.

## **BACKGROUND**

On August 9, 2017, Roldan filed a request for civil harassment restraining orders, seeking protection for himself, his wife, and his children from Laumboy, who lived across the street from him. The reason he gave for the request was an incident that occurred on August 3, 2017. He stated in his request that on that date, Laumboy caused a disturbance and verbally assaulted him and his wife. Roldan indicated that members of the Los Angeles County Sheriff's Department and Los Angeles County Fire Department, who had responded to his 911 call, were witnesses to the assault, and that Laumboy told the fire captain, engineer, and another firefighter (along with Roldan) that she "would go get her AR 15 and 357 magnum."

The court, Judge LaRonda McCoy presiding, granted a temporary restraining order and set a hearing on a permanent restraining order. A week before that hearing, Laumboy filed a response to Roldan's request for a restraining order. In her response, Laumboy stated that she did not own or control any guns or firearms, and denied making the statement Roldan alleged. Instead, she asserted that Roldan was the person who said he had a gun; she claimed that he said he would shoot her for insulting him and his wife. Laumboy stated that she decided not to take out a restraining order against Roldan because she wanted to pursue peace, and she apologized for insulting Roldan and his wife.

The hearing on the permanent restraining order was held before Clifford R. Anderson, a judge pro tem. After the parties were sworn, the court asked Roldan about the alleged assault. Roldan explained that before the August 3 incident, he had not had any contact with Laumboy for the two and a half years they had lived across the street from each other. Describing the incident, Roldan testified that he was driving his car out of his driveway when Laumboy came out of her house and stood at her curb "flipping [him] off." He rolled down his car window and asked her what the problem was. She told him, "I know what you've been doing. I know that you have been sending your helicopter to spy on me. I know all of you sheriffs and firemen are nothing but rapists."<sup>1</sup> Roldan told Laumboy that he did not know what she was talking about, but Laumboy continued making accusations. Roldan pulled back into

---

<sup>1</sup> Roldan worked as a firefighter paramedic for the Los Angeles County Fire Department.

his driveway and called 911, at which point Laumboy started walking up and down the street saying profane things about Roldan's wife, and calling Roldan a coward for not getting out of his car.

When the sheriff's deputies arrived, Laumboy went back into her house. Once she was inside her house, the deputies told Roldan there was nothing they could do, and they left. After the deputies left, members from the Los Angeles County Fire Department arrived. Laumboy came back outside, went up to the fire captain and said, "All you firefighters are the same. I'm going to go get my AR-15 and 357 magnum." According to Roldan, Laumboy's statement to the captain was witnessed by the engineer on duty and another firefighter, in addition to himself.

After hearing from Roldan, the court asked Laumboy for her response to Roldan's testimony. She stated that the testimony was "totally untrue." The court asked why Roldan would make it up, and Laumboy responded that she did not know, but that she was being truthful in stating that she had never spoken to Roldan. Laumboy also asserted that it would be unjust to grant a restraining order because "the elements of the law do not apply," and it would affect her career as a paralegal.

The court granted the restraining order, although only as to Roldan himself, and ordered Laumboy to stay away from Roldan's house and his person. The court also ordered that the restraining order would remain in place for five years. Laumboy timely filed a notice of appeal from the order.

## DISCUSSION

### A. *Stipulation to Judge Pro Tem*

In her opening brief, Laumboy states (without any citation to the record) that on the day of the hearing, a court clerk came out to the hallway to inform those who were waiting to enter that their cases would be heard in a different courtroom, before a different judge. When they all got to the new courtroom, the clerk told everyone to sign a document, but no one explained what that document was. After everyone had signed the document and had been sworn in, the clerk informed them that the cases would be heard by the Hon. Clifford Anderson, a judge pro tem.

Laumboy contends on appeal that her due process rights were violated because there was insufficient notice that her case would be decided by a judge pro tem, and therefore she did not willfully or with full knowledge waive her right to have the matter decided by a sitting judge. We find no constitutional violation.

Laumboy is correct that she was entitled to notice—either by “[a] conspicuous sign posted inside or just outside the courtroom, accompanied by oral notification or notification by videotape or audiotape by a court officer on the day of the hearing” or by a written notice provided to her (Cal. Rules of Court, rule 2.816(c))—that the case was going to be heard by a judge pro tem, and that she had the right, absent a stipulation, to have the case heard by a sitting judge rather than a judge pro tem. Laumboy’s contention fails, however, because there is no indication in the record that notice was not properly given.

We presume that the official duties of the court were regularly performed. (Evid. Code, § 664.) Laumboy bore the burden of showing that such was not the case, and her unsupported statements in the appellant’s opening brief cannot overcome this presumption. (See, e.g., *Denham v. Superior Court* (1970) 2 Cal.3d 557, 564 [“All intendments and presumptions are indulged to support [a judgment or order of the lower court] on matters as to which the record is silent, and error must be affirmatively shown” by the appellant].) In any event, we can infer from the record that, in fact, Laumboy *was* provided sufficient notice. First, the case summary from the trial court, which was included in the clerk’s transcript, indicates that a written stipulation to have the case heard by a judge pro tem was filed with the court; this written stipulation constitutes written notice. In addition, the minute order for the hearing states that the parties stipulated that Clifford R. Anderson “may hear this matter as Judge Pro Tem.” Moreover, as Laumboy admits in her appellant’s opening brief, an announcement was made that the case would be heard by a judge pro tem, and Laumboy raised no objection. (See Cal. Rules of Court, rule 2.816(d(1) [“The party is deemed to have stipulated to the attorney serving as a temporary judge if the party fails to object to the matter being heard by the temporary judge before the temporary judge begins the proceeding”].) Thus, we conclude that having a judge pro tem decide the case did not violate Laumboy’s due process rights.

B. *Opportunity for Laumboy to Present Evidence*

Laumboy next contends that her right to due process was violated because the court did not allow her a reasonable opportunity to present evidence to support her defense. The record, however, belies this contention.

It is true that the court interrupted Laumboy when she began to testify about her family's history living in the neighborhood, asking her what that had to do with the restraining order. But Laumboy did not provide any explanation or offer of proof in response to the court's question. Instead, she simply said that she wanted to establish that she never said anything to Roldan, then began talking about the law and the fact that she did not have a gun.<sup>2</sup> At no time did Laumboy attempt to offer any documents into evidence, nor did she attempt to provide any testimony other than to say that she was telling the truth and did not make the statements attributed to her. Rather, she focused upon her legal argument, i.e., that Roldan was not legally entitled to a protective order. In short, she was not deprived of an opportunity to present evidence or argument in her defense.

---

<sup>2</sup> She mentioned an "incident report" and said that it stated that "they" (presumably the Sheriff's Department) "ran an MDR and there was no gun," but she did not offer that report into evidence. It appears that she has attached it as an exhibit to the appellant's opening brief. Submission of the report to this court was improper because it does not appear to have been before the trial court when it made its ruling. Therefore, we do not consider it, nor (for the same reason) do we consider the other documents that Laumboy attached to her brief.

C. *Court's Comment Regarding Laumboy's Mental Health*

During Roldan's testimony describing the incident, the court interposed a comment regarding Laumboy, saying, "I understand it sounds like she's got psychological problems." Later, after granting the permanent restraining order and ordering Laumboy not to speak to Roldan or go within 100 yards of him (during which ruling Laumboy kept interrupting), Laumboy said, "I'm going to appeal the case, Your Honor." The court responded, "You leave him alone. And I think you need to seek some help."

On appeal, Laumboy contends that the court's statements referring to her having psychological problems violated her due process rights and constituted a violation of the code of judicial conduct. We disagree.

There is no question that a party appearing in a legal proceeding "has a due process right to an impartial trial judge under the state and federal Constitutions. [Citations.] The due process clause of the Fourteenth Amendment requires a fair trial in a fair tribunal before a judge with no actual bias against the defendant or interest in the outcome of the case." (*People v. Guerra* (2006) 37 Cal.4th 1067, 1111, overruled on another point in *People v. Rundle* (2008) 43 Cal.4th 76, 151.) When reviewing a claim of judicial bias or misconduct, "[o]ur role . . . is not to determine whether the trial judge's conduct left something to be desired, or even whether some comments would have been better left unsaid. Rather, we must determine whether the judge's behavior was so prejudicial that it denied [appellant] a fair, as opposed to a perfect, trial." (*People v. Snow* (2003) 30 Cal.4th 43, 78.)



In the present case, there is no indication that the court was biased against Laumboy or that Laumboy did not receive a fair hearing as a result of the court's comments. The conduct Roldan described at the hearing was quite peculiar, and appeared to be that of a person suffering from paranoia. Although the court's comments may have been ill-advised, they simply expressed the court's impression of the evidence that was being presented. We understand that the comments may have caused Laumboy some distress; they did not, however, violate her due process rights.

D. *Sufficiency of the Allegations and Evidence*

Laumboy contends that the conduct at issue in this case was insufficient to support the restraining order because under Code of Civil Procedure section 527.6 (section 527.6), such an order may be issued only if there is a repetitive course of conduct with a credible threat of violence, which did not occur here. She is mistaken.

Section 527.6 provides that a restraining order may issue to protect any "person who has suffered harassment." (Code Civ. Proc., § 527.6, subd. (a)(1).) "Harassment" is defined as "unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose." (Code Civ. Proc., § 527.6, subd. (b)(3).) A "credible threat of violence" is defined as "a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety or the safety of his or her immediate family, and that serves no legitimate purpose." (Code Civ.

Proc., § 527.6, subd. (b)(2).) And the statute defines “course of conduct” to include “a pattern of conduct composed of a series of acts over a period of time, *however short*, evidencing a continuity of purpose, including following or stalking an individual.” (Code Civ. Proc., § 527.6, subd. (b)(1), italics added.) In the present case, there was evidence of both a credible threat of violence and a course of harassing conduct.

With regard to a credible threat of violence, Roldan, a firefighter, testified that Laumboy accused him of spying on her, said that sheriffs and firefighters were “nothing but rapists,” and then told the fire captain that she was going to go get her assault rifle and .357 magnum. Laumboy appears to contend that this statement does not constitute a credible threat of violence because that would require that the firearm be brandished or pointed at the victim, and there was no evidence that she actually owned any firearms. She is incorrect. Under section 527.6, a “credible threat of violence” can be a statement alone, and the focus is on whether a reasonable person would be placed in fear for his or her life by the statement. In other words, the person seeking a restraining order based upon a statement implying that the speaker is going to come after him with an assault rifle is not required to show that the speaker actually has that assault rifle. Given the relative ease with which firearms may be obtained, Laumboy’s assertion that she did not *presently* own any guns does not negate the fear a reasonable person might have as a result of her statement. Thus, Roldan’s evidence of Laumboy’s threatening statement was sufficient to support the trial court’s grant of the restraining order.

But even if Roldan had not established a credible threat of violence, there was sufficient evidence of a course of harassing conduct to support the restraining order. The evidence presented showed that Laumboy verbally assaulted Roldan as he was driving out of his driveway, but went inside her house once the sheriff's deputies arrived. She then came outside again and continued her verbal assault after the deputies left. Although not very much time had passed between the two episodes of verbal assaults, the statute expressly states that the course of conduct may take place over a short period of time. Thus, the restraining order may be affirmed on this ground alone.

#### **DISPOSITION**

The restraining order issued August 30, 2017 is affirmed.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

WILLHITE, J.

We concur:

MANELLA, P. J.

COLLINS, J.